

**State of California  
Office of Administrative Law**

In re:  
Bureau for Private Postsecondary Education

Regulatory Action:

Title 5, California Code of Regulations

Adopt sections: 76020, 76140, 76212,  
76240

Amend sections: 76000, 76120, 76130,  
76200, 76210, 76215

Repeal sections: 76010, 76240

NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION

Government Code Sections 11346.1 and  
11349.6

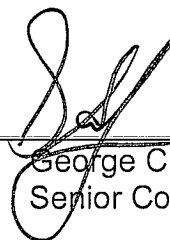
OAL File No. 2010-1124-02 EE

This regulatory action is the second re-adoption of an emergency to establish new procedures and requirements for the Student Tuition Recovery Fund (STRF).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 12/1/2010 and will expire on 3/2/2011. The Certificate of Compliance for this action is due no later than 3/1/2011.

Date: 12/1/2010



George C. Shaw  
Senior Counsel

For: SUSAN LAPSLEY  
Director

Original: Brian Stiger  
Copy: Joanne Wenzel

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z- 2010-0413-08</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2010-1124-02EE</b>
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For use by Office of Administrative Law (OAL) only

ENDORSED FILED  
IN THE OFFICE OF

2010 DEC -1 PM 2:36

  
 DEBRA BOWEN  
 SECRETARY OF STATE

 2010 NOV 24 PM 2:20  
 OFFICE OF  
 ADMINISTRATIVE LAW

NOTICE

REGULATIONS

 AGENCY WITH RULEMAKING AUTHORITY  
 Bureau for Private Postsecondary Education / Department of Consumer Affairs

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Student Tuition Recovery Fund (STRF)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2010-0122-02E; 2010-0720-08EE; 2010-1007-07C
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 76020, 76140, 76212, and 76240
	AMEND 76000, 76120, 76130, 76200, 76210, and 76215
	REPEAL 76010, 76240
TITLE(S) 5	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only
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4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

N/A

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____
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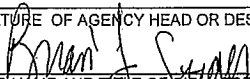
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
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7. CONTACT PERSON

Joanne Wenzel	TELEPHONE NUMBER (916) 384-1254	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) joanne.wenzel@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 11/24/10
TYPED NAME AND TITLE OF SIGNATORY BRIAN J. STIGER, Acting Director/Senior Chief Deputy Director, Dept. of Consumer Affairs	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 01 2010

Office of Administrative Law

Bureau for Private Postsecondary Education

Text of Proposed Language

Amend Sections 76000-76420 of Division 7.5 of Title 5 of the California Code of Regulations to read as follows:

Text of Emergency language in Underline and ~~Strike-out~~ format.

Text of proposed changes to Emergency language for re-adoption in Double Underline and ~~Double Strike-out~~ format.

**Chapter 7.5. Closed Institutions Student Tuition Recovery Fund**

Article 1. General Provisions

**§ 76000. Definitions.**

For purposes of ~~Sections 94944 and 94945 of the Code~~ and this chapter, the following definitions apply:

(a) "California resident" means a person who resides in California at the time the enrollment agreement is signed or when the person receives lessons at a California mailing address from an approved institution offering ~~correspondence instruction~~ distance education. ~~"Prepaid" describes any amount of money which an institution accepts in advance of rendering educational services.~~

(b) "Closed institution" means an institution at which a closure has occurred. ~~"Fund" means the Student Tuition Recovery Fund.~~

(c) ~~"Tuition" means the actual amount charged each student for instruction, instructional materials, equipment costs and any other fee required of the student in order for the student to receive a certificate of completion or diploma attesting to the completion of the instruction required for such certificate or diploma. "Tuition" does not include costs of room and board, supplies, an application fee or transportation. For purposes of calculating assessment under section 94945, tuition does not include the STRF fee.~~

(cd) "Economic loss" means pecuniary loss, which is the sum of the student's tuition, cost of equipment and materials required for the educational program, and interest on any student loan used to pay for such charges, collection costs and penalties. Economic loss shall also include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. Economic loss does not include Student Tuition Recovery Fund assessments, room and board, supplies, transportation, application fees, or non-pecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages. ~~"California resident" means a person who resides in California at the time the enrollment agreement is signed or when he or she receive lessons at a California mailing address from an approved institution offering correspondence instruction.~~

(de) "Fund" means the Student Tuition Recovery Fund. ~~"Closed institution" means an institution at which a closure has occurred.~~

(ef) "Prepaid" describes any amount of money that an institution accepts in advance of rendering educational services. ~~"Closure" as describe in paragraph (1) of subdivision (a) of Section 94944 of the Code, also includes class instruction that ceases to be offered because the institution moved the location of the class instruction without compliance with subdivision (h) of Section 94873 of the Code and this chapter.~~

(fg) "Qualifying institution" is an approved institution or an institution subject to the provisions of Article 14, commencing with section 94923 of the Code, and section 94874.1 of the Code. "Economic loss" means pecuniary loss which is the sum of the student's tuition, cost of equipment and materials, and interest on students loans used to pay for tuition, equipment and materials, collections costs and penalties. Economic loss shall also include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. Economic loss does not include STRF fees, application fees or non-pecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages.

(h) "Continuing student" is a student who signed an enrollment agreement before January 1, 2002 for classes starting on or after January 1, 2002. A continuing student is not a "new student," as defined in section 94945 of the Code.

(i) "Newly enrolled student" is a "new student," as defined in section 94945 of the Code.

(j) "Soon after" means, for the purposes of section 94944(d)(1)(F), within 90 days after an institution's closure.

(g) "Residency Program" means an educational program at an approved institution of which some portion of the instruction occurs as direct instruction as defined in section 71715(c).

~~(g)~~(h) "STRF" means Student Tuition Recovery Fund.

~~(h)~~(i) "Student Tuition Recovery Fund assessment fee" or "STRF assessment fee" means a state-imposed charge to fund this chapter that is required to be paid by a California resident student who pays his or her tuition directly or through a loan to an institution.

(l) "Teach out" means an arrangement whereby an institution offers to provide to a student, without any additional charge, all of the instruction promised but not provided to that student by a closed institution because of the closure.

~~(im)~~(j) "Teach-out institution" means the institution offering a teach-out to a former student of an institution that has ceased to operate.

NOTE: Authority cited: Sections 94803, 94877 and 94923 94770, 94774 and 94778, Education Code. Reference: Sections 94874.1, 94923, 94926, 94927 and 94927.5, 94825, 94852, 94873, 94944 and 94945, Education Code.

#### **76010. Teach-Out Plan.**

An institution closing or not seeking renewal to operate before the completion of educational services by all enrolled students shall propose a written plan to assist the Bureau to develop teach-out options for students.

NOTE: Authority cited: Sections 94770, 94774 and 94778, Education Code. Reference: Section 94944, Education Code.

#### **§ 76020. Student Tuition Recovery Fund (STRF).**

(a) The fund exists to relieve or mitigate pecuniary losses suffered by a California resident who is or was a student of a qualifying institution, who is or was a California resident or was enrolled in a residency program, if the student enrolled in an institution, prepaid tuition, paid the assessment, and suffered loss as a result of any of the following:

(1) The closure of the institution;

(2) The institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the institution;

- (3) The institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs;
- (4) A significant decline in the quality or value of the educational program within the 30-day period before the closure of the institution or, if the decline began before that period, the period of decline determined by the Bureau, to a degree that results in the institution's failure to meet minimum operating or academic standards; and
- (5) The student's inability to collect a judgment entered against a qualifying institution for a violation of the Act, subject to all of the following:
  - (A) The student has reasonably tried, and failed, to collect on the judgment. The Bureau will determine the reasonableness of the effort on a case-by-case basis;
  - (B) The Bureau receives the student's application within 4 years from the school's closure;
  - (C) The student has not received reimbursement or forgiveness from any other source.
- (b) A student whose total charges were paid by a third-party payer is not eligible to make a claim.

Note: Authority: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94874.1, 94923, 94926, 94927 and 94927.5, Education Code.

## Article 2. STRF Assessments

### **§ 76120. Amount of STRF Assessment.**

- (a) ~~For enrollment agreements signed during the January 1, 2002 to December 31, 2002 period, an assessment of three dollars (\$3.00) per one thousand dollars (\$1,000) of tuition, rounded to the nearest thousand dollars, applies to each new student as tuition is paid or loans are funded on behalf of the student. For tuition paid of one thousand dollars (\$1,000) or less, the assessment is three dollars (\$3.00).~~
- (b) ~~Commencing with January 1, 2003, Each qualifying institution shall collect an assessment of two dollars and fifty cents (\$2.50) per one thousand dollars (\$1,000) of tuition institutional charges, rounded to the nearest thousand dollars, applies to from each new student who is a California resident or is enrolled in a residency program as tuition is paid or loans are funded on behalf of the student. For tuition paid institutional charges of one thousand dollars (\$1,000) or less, the assessment is two dollars and fifty cents (\$2.50).~~
- (b) Unless a student has a separate agreement to repay the third party, a student whose costs are paid to the institution by third-party payer shall not pay the STRF assessment to the qualifying institution.
- (c) Except when an institution provides a 100% refund pursuant to section 94919(d) or section 94920(b) of the Code, The the assessment is non-refundable.
- (e) ~~Continuing students, as defined under Section 76000(h), shall be assessed the fee in existence before January 1, 2002 as follows:~~
  - (1) ~~Two dollars and fifty cents (\$2.50) per student for a total course cost of one cent (\$0.01) to two thousand nine hundred ninety nine dollars and ninety nine cents (\$2,999.99) inclusive.~~
  - (2) ~~Three dollars and fifty cents (\$3.50) per student for a total course cost of three thousand dollars (\$3,000) to five thousand nine hundred ninety nine dollars and ninety nine cents (\$5,999.99) inclusive.~~
  - (3) ~~Four dollars and fifty cents (\$4.50) per student for a total course cost of six thousand dollars (\$6,000) to eight thousand nine hundred ninety nine dollars and ninety nine cents (\$8,999.99) inclusive.~~

(4) Five dollars and fifty cent (\$5.50) per student for a total course cost of nine thousand dollars (\$9,000) or more.

(d) If an institution has not paid assessments to the Fund for a total of 16 quarters at the time the institution is granted an approval to operate, the Bureau shall levy assessments on the institution for up to an aggregate total of 16 quarters, regardless of whether the Fund balance as of June 30 of the prior fiscal year exceeds one million five hundred thousand dollars (\$1,500,000) in the degree-granting postsecondary educational institution account for four million five hundred thousand dollars (\$4,500,000) in the vocational educational institution account.

NOTE: Authority cited: Sections 94803, 94877 and 94923, 94774 and 94778, Education Code. Reference: Sections 94923, 94843, and 94911(b)94945, Education Code.

**§ 76130. Collection and Submission of Assessments. Due Date of Assessments and STRF Assessment Reporting Forms.**

(a) A qualifying institution shall collect the assessment from each student at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments. The Bureau shall provide each institution and each registered institution offering Short term Career Training with STRF Assessment Reporting Forms #STRF-03, 04 and 05, effective January 1, 2002, as applicable, during the last month of each calendar quarter: March, June, September and December.

(b) A qualifying institution and a registered institution offering Short term Career Training shall complete the STRF Assessment Reporting Forms (Rev. 2/10) #STRF-03, 04 and 05, effective January 1, 2002, as applicable, and remit it with the STRF assessments fees collected from continuing, new and newly enrolled students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

- (1) April 30 for the first quarter,
- (2) July 31 for the second quarter,
- (3) October 31 for the third quarter, and
- (4) January 31 for the fourth quarter.

An institution and a registered institution offering Short term Career Training are not required to remit a STRF fee for a continuing, new or newly enrolled student who has exercised his or her right of rescission under sections 94812, 94822 and/or 94867.

(4) If the due date falls on a Saturday, Sunday or State or federally approved holiday, the due date shall be extended to the next regular business day for the Bureau, which is not a Saturday, Sunday or state or federally approved holiday.

(c) The STRF Assessment Reporting Form shall contain the following information:

- (1) Total number of student who signed enrollment agreements during the reporting period; and
- (2) Total number of students eligible for STRF who signed enrollment agreements during the reporting period; and
- (3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and
- (4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and

~~(3)(5) Total amount of tuition-charged institutional charges after rounding each student's tuition institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and~~

~~(4)(6) Current contact telephone number of the person preparing the form; and~~

~~(5)(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.~~

~~(e)(d) In the event of a school closure, any collected unpaid-assessments shall be remitted to the Bureau within seven days following the cessation of instruction.~~

~~(d)(e) Submission of all prior reports and assessments required by this section is a condition of renewal. An institution and a registered institution offering Short-term Career Training shall collect and maintain a record of student information to substantiate the data reported on the STRF Assessment Reporting Forms # STRF-03, 04 and 05, effective January 1, 2002, eligibility requirements under the Fund that shall include the following for each student:~~

~~(1) Identification number and/or Social Security number;~~

~~(2) First name;~~

~~(3) Last name;~~

~~(4) Local or mailing address;~~

~~(5) Home address;~~

~~(6) Date enrollment agreement signed;~~

~~(7) Courses and course costs;~~

~~(8) Amount of STRF fee collected;~~

~~(9) Quarter in which the STRF fee was remitted to the Bureau;~~

~~(10) Third-party payer identifying information;~~

~~(11) Total tuition-charged;~~

~~(12) Total tuition paid.~~

~~(e) The data under this subdivision (d) shall be maintained in an intelligible form and orderly manner either manually or in electronic format so that the information is readily available and open to inspection by the Bureau upon request. All record-keeping systems shall include identification of coding systems that are readily available whenever they are used to record and maintain any of the information required under this subdivision.~~

~~(f) If the Bureau fails to send the STRF Assessment Reporting Forms #03, 04 and/or 05, effective January 1, 2002 to an institution or registered institution offering Short-term Career Training in accordance with section 76130(a), the following applies:~~

~~(1) An institution or registered institution offering short-term Training shall remit STRF fees collected from continuing and new students and completed STRF Assessment Reporting Forms #STRF-03, 04 and/or 05, effective January 1, 2002, as applicable, for every quarter occurring after January 1, 2002 in which the Bureau failed to send the forms described under section 76130(a).~~

~~(2) STRF Assessment Reporting Forms #STRF-03, 04 and 05 and corresponding STRF fees shall be remitted to the Bureau within 40 days from the date of mailing by the Bureau.~~

NOTE: Authority cited: Sections 94803, 94877 and 94923 94774 and 94778, Education Code. Reference: Section 94923 94812, 94822, 94829, 94832, 94835, 94836, 94867 and 94945, Education Code.

#### **§ 76140. Record-Keeping Requirements.**

**(a) A qualifying institution shall collect and maintain records of student information to substantiate the data reported on the STRF Assessment Reporting Form and records of the**

students' eligibility under the Fund. Such records shall include the following for each student:

- (1) Student Identification number and/or Social Security number.
- (2) First and last names.
- (3) Email address.
- (4) Local or mailing address.
- (5) Address at the time of enrollment.
- ~~(5)~~(6) Home address.
- ~~(6)~~(7) Date enrollment agreement signed.
- ~~(7)~~(8) Courses and course costs.
- ~~(8)~~(9) Amount of STRF assessment collected.
- ~~(9)~~(10) Quarter in which the STRF assessment was remitted to the Bureau.
- ~~(10)~~(11) Third-party payer identifying information.
- ~~(11)~~(12) Total tuition charged, and
- ~~(12)~~(13) Total tuition paid.

(b) The qualifying institution shall maintain the data required under this section in an electronic format that is readily available and open to inspection by the Bureau upon request. The institution shall make the records immediately available to a Bureau representative conducting a site inspection or, upon written request, shall provide a copy within 14 calendar days of the request. All records shall be provided to the Bureau in an intelligible and orderly manner and in an electronic format.

NOTE: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

### **Article 3. Payments from the Fund**

#### **§ 76200. Application for Payment.**

(a) A student seeking reimbursement under the Fund shall file a written application on the Bureau's Student Tuition Recovery Fund Application Form (STRF App Rev. 2/10), signed under penalty of perjury that the form and all attachments are true and correct, which includes the following information:

- (1) The student's name, address, telephone number, email address, and social security number or taxpayer identification number;
- (2) If any portion of the total charges were paid from the proceeds of a loan, the name of the lender, and any state or federal agency that guaranteed or reinsured the loan;
- (3) The Proof of the amount and description of the student's economic loss, and the amount of the student's claim;
- (4) The Proof of the date the student started and ceased attending the institution;
- (5) A description of the reasons the student ceased attending the institution, or if the student graduated, date of graduation;
- (6) The student's or borrower's authorization to allow the Bureau to negotiate with any lender, holder, guarantee agency, or the U.S. Department of Education on the student's behalf to reduce the loan obligation;
- (7) The student's authorization to allow the Bureau to issue a payment directly to any lender, holder, guarantee agency, or the U.S. Department of Education on the student's behalf; and
- (8) An assignment to the Fund and the Bureau of the student's rights to collect those funds against the institution if any payment issues as a result of the application;
- (9) The institution name, address and phone number in which the students attended;



(10) If Proof that the student was a California resident at time of enrollment, or was enrolled in a residency program;

(11) If Proof that the student paid into the STRF;

(12) If the student took an approved leave of absence, and documentation of the approval;

(13) If Whether the student has previously applied for STRF reimbursement;

(14) If Whether the course of study or portion completed prepared the student to take a state or national licensure exam; and

(15) If the student transferred to another school, a list of all classes or units transferred.

(b) The application must be fully completed and received by the Bureau, with supporting documents that include, but need not be limited to, the enrollment agreement, promissory notes, if any, and any receipts, within two years from date of the closure notice explaining the student's rights under STRF, whether provided by the institution or the Bureau, or a maximum of four years if the student received no closure notice.

(c) Students whose total charges are paid by a third party payer are not eligible to apply for payment by the Fund.

Student Tuition Recovery Fund (STRF) Application, Form #STRF-02, effective January 1, 2002, shall be used to file claims for payment from the Fund.

(bd) The Bureau may conduct an investigation to verify whether to grant or deny a claim, and may request any additional information or supporting documentation.

(e) If the Bureau pays the claim, the amount of the payment is measured by the total amount of the student's economic loss, as defined in Section 76000(g). The amount of the refund is not dependent on, or necessarily limited to, the amount of refund the student would have received from the institution if the student had voluntarily withdrawn.

(d) A judgment against an institution for any violation of the Act that provides for damages or restitution for students affected by the violation and that was obtained in any group or class action. In any action brought by the Bureau, the Attorney General, or any other law enforcement agency, or in any action brought pursuant to Section 17200 of the Business and Professions Code, shall be entitled to payment from the Fund provided that the judgment cannot be collected despite diligent collection efforts, a claim is filed within two years after the judgment became final, a claim indicating the total amount of the judgment allocable to each student is filed, and the total amount paid to each student does not exceed the amount which the student would have been entitled to receive if the student had obtained a judgment for the amount allocable to the student.

(e) If a student elects a teach-out, the following conditions apply:

(1) If the student withdraws from the teach-out institution within the first two weeks of enrollment, the student shall be entitled to apply to the Fund to recover the student's full economic loss related to the payment of tuition to the closed institution.

(2) If the student withdraws from the teach-out institution after the first two weeks of enrollment, the student shall be entitled to apply to the Fund to recover a pro-rata refund, to the extent provided by statute, for the portion of the education service paid for but not received.

(3) If the teach-out institution receives the proceeds of any financial aid disbursements, the teach-out institution shall make the appropriate refunds or payments as provided in paragraph (1) or (2) but only to the extent of proceeds actually received.

(4) If the teach-out institution provides all of the instruction which the closed institution represented it would provide, the student shall not be entitled to claim reimbursement of the amount that the student paid to the closed institution for instruction.

(5) ~~In addition to any recovery provided in paragraph (1) or (2), a student may claim all economic loss incurred as a result of the closure up to the maximum amount permitted by statute.~~

NOTE: ~~Authority cited: Sections 94774 and 94778, Education Code. Reference: Section 94944 and 94945, Education Code.~~

NOTE: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94870 and 94923, Education Code.

**§ 76210. Payment of Claims Amount, Payment and Denial.**

(a) ~~The Bureau shall~~ may negotiate with a lender, holder, guarantee agency, or the U.S. Department of Education for the full compromise or write-off of student loan obligations to relieve students of economic loss and, if possible, to reduce the liability of the Fund for the payment of claims.

(b) ~~The Bureau may pay, with the student's permission, a student's claim directly to the lender, holder, guarantee agency, or U.S. Department of Education, under a federally guaranteed student loan program only if the payment of the claim fully satisfies all of the student's loan obligations related to attendance at the institution for which the claim was filed.~~

(c) If the Bureau grants the claim, the amount of the payment is measured by the total amount of the student's economic loss, as defined in Section 76000, less the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, compromise or any other benefit received by, or on behalf of, the student that was related to the economic loss. The amount of the payment is not dependent on, or necessarily limited to, the amount of refund the student would have received from the institution if the student had voluntarily withdrawn. The Bureau cannot pay any claim to a student without a social security number or a taxpayer identification number.

(d) In addition to the reductions in (c) above, the Bureau may reduce the amount of the payment by the value of the benefit, if any, of the education obtained by the student before the closure of the institution.

(e) If a student participated in a teach-out, the following conditions also apply:

(1) If the student withdraws from the teach-out institution within the first two weeks of enrollment, the student's economic losses are calculated as though the student never received the teach-out.

(2) If the student withdraws from the teach-out institution after the first two weeks of enrollment, the student's economic loss includes only a pro rata portion of charges for the hours of the education service paid for, but not received from, either institution.

(3) If the teach-out institution provides all of the remaining instruction that the closed institution had represented it would provide, the student's economic loss shall not include any amount the student paid to the closed institution specifically for instruction.

(4) Regardless of participation in a teach-out, a student may recover economic losses other than those specifically related to the instruction.

(f) Upon payment of the claim, all of the student's rights against the institution for that amount of payment shall be deemed assigned to the Bureau.

~~(g) If the Bureau denies the claim, or reduces the amount of the claim, the student shall have a right to right to appeal that action within 30 calendar days from the date of the decision or longer if permitted by the Bureau on a case-by-case basis. Any appeal shall be conducted in~~

accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(h)(g) If the Bureau denies the claim, or reduces the amount of the claim, ~~The Bureau may, prior to a formal hearing,~~ informally consider ~~the~~ a written appeal and modify its decision. ~~If the Bureau modifies its decision but still denies the claim in part, a new period for submitting an appeal begins.~~

(i) If a written appeal is not received by the Bureau within 30 calendar days from the date of the decision, the Bureau's decision shall be final.

NOTE: Authority cited: Sections 94803, 94877 and ~~94923~~94774 and 94778, Education Code. Reference: Section ~~94923~~94944, Education Code.

#### **§ 76212. Claims by Government Agency on Behalf of Students.**

If the Bureau, the Attorney General, or any other law enforcement agency obtains a judgment against an institution on behalf of one or more students pursuant to Section 17200 of the Business and Professions Code or similar authority, that law enforcement agency shall be entitled to payment from the Fund under the following conditions:

(a) The institution was qualified and is now closed;

(b) ~~The judgment~~ A remedy cannot be ~~collected~~ obtained despite diligent ~~collection~~ efforts to prosecute, prove, and collect a judgment;

(c) A claim is filed within two years after the judgment became final;

(d) A claim indicating the total amount of the judgment allocable to each student is filed; and

(e) The total amount paid to each student does not exceed the amount that the student would have been entitled to receive if the student had obtained a judgment for the amount allocable to the student.

NOTE: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

#### **§ 76215. Student Tuition Recovery Fund Disclosures.**

(a) ~~An~~ a qualifying institution approved under Article 8 (commencing with section 94900 of the Code), Article 9 (commencing with section 94915 of the Code), or a registered institution offering Short term Career Training shall include the following statement on both the its enrollment agreement and its the current schedule of student charges, the following statement:

"You must pay the state-imposed assessment fee for the Student Tuition Recovery Fund (STRF) if all of the following applies to you:

1. You are a student, who is a California resident, or are enrolled in a residency program, and prepay~~s~~ all or part of your tuition either by

cash, guaranteed student loans, or personal loans, and

2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.

You are not eligible for protection from the STRF and you are not required to pay the STRF assessment fee, if either of the following applies:

1. You are not a California resident, or are not enrolled in a residency program, or
2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party."

(b) In addition to the statement described under subdivision (a) of this section, ~~a the qualifying institution or registered institutions offering Short-term Career Training~~ shall include the following statement on its ~~the current schedule of student charges, the following statement:~~

"The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered ~~by California residents who were students~~ who are California residents, or are enrolled in a residency program attending certain schools regulated by approved ~~by, or registered to offer Short-term Career Training with,~~ the Bureau for Private Postsecondary and Vocational Education.

You may be eligible for STRF if you are a California resident or are enrolled in a residency program, prepaid tuition, paid the STRF assessment fee, and suffered an economic loss as a result of any of the following:

1. The school closed before the course of instruction was completed.
2. The school's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purpose, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the school.
3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the school prior to closure in excess of tuition and other cost.
4. ~~The school's breach or anticipatory breach of the agreement for the closure of instruction.~~
5. 4. There was a decline in the quality of the course of instruction material failure to comply with the Act or this Division within 30 days before the school closed or, if the ~~decline material failure~~ began earlier than 30 days prior to closure, the period ~~of decline~~ determined by the Bureau.
6. ~~The school committed fraud during the recruitment or enrollment or program participation of the student.~~
5. An inability after diligent efforts to prosecute, prove, and collect on a judgment against the institution for a violation of the Act."

~~You may also be eligible for STRF if you were a student that was unable to collect a court judgment rendered against the school for violation of the Private Postsecondary and Vocational Education Reform Act of 1989."~~

(c) ~~The Bureau shall mail the Notice and Explanation of student Rights under the Student Tuition Recovery Fund, Form STRF 06, effective January 1, 2002, to students soon after an institution's closure or upon request from a student for an explanation of his or her rights under the Student Tuition Recovery Fund.~~

NOTE: Authority cited: Sections 94803, 94877 and 94923 ~~94774 and 94778~~, Education Code. Reference: Section ~~94923 94810, 94825, and 94944~~, Education Code.

#### ARTICLE 4. Orderly Closure and Teach-Outs ~~SPECIAL ASSESSMENTS~~

##### § 76240. Required Notices and Teach-Out Plan. ~~Method for Calculating a Special Assessment.~~

All institutions, including those exempt from Bureau regulation pursuant to the Code, shall do the following prior to closing:

(a) At least 30 days prior to closing, the institution shall notify the Bureau in writing of its intention to close and provide a closure plan. The closure plan shall include:

(1) The exact date and reason for the closure.

(2) The last date of instruction for each educational service or program.

(3) A list of students who were enrolled at any time during the 60 days prior to closure.

(4) If any student will not be provided complete educational services or the educational program, the institution shall provide:

(A) A plan for providing teach-outs or transfers, including the details of any agreements with other institutions.

(B) If no teach-out is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.

(5) A plan for the disposition of student records.

(6) A plan to notify students of their rights and options under the Act and this chapter.

(b) The institution shall notify the students of the following:

(1) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning those programs and institutional closures.

(2) If any student will not be provided complete educational services or the educational program, information regarding the Student Tuition Recovery Fund and the Bureau's physical and Internet addresses.

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Note: Authority cited: Sections ~~94803 and 94877 94774, 94778 and 94944~~, Education Code.  
Reference: Sections ~~94874.5, 94909, 94911, 94926, 94927, 94927.5~~ ~~Section 94945~~,  
Education Code.